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SUMMARY

The Commission's Local Number Portability (LNP) decision is essential to achieving effective competition in local markets. The ability of consumers "to port" their telephone numbers from incumbent local exchange carriers (ILECs) to new market entrants -- without incurring any costs or other disadvantages in so doing -- is critical, and the Commission's LNP decision recognizes this need. Accordingly, any efforts to dilute or delay implementation of the Commission's landmark numbering decision must be flatly rejected as contrary to the public interest.

The Commission's treatment of interim LNP cost allocations cannot be modified in any manner that would cause it to become "competitively non-neutral." In addition, ILEC attempts to breathe life back into the query-on-release (QOR) approach must be rejected. That approach has been thoroughly discredited as reflected in the record developed in this proceeding. If adopted, QOR would result in unacceptable post-dial delay for calls made to ported numbers. This, in turn, would lead to significant and unwarranted competitive advantages for ILECs. Moreover, using QOR "within a carrier's network" would not satisfy the performance criteria established by the Commission.

The Commission also must reject ILEC requests to modify the LNP deployment schedule. Its decision established a process whereby a carrier can seek to delay or stay implementation for up to nine months, if truly necessary, and that should be a sufficient "safety valve" for dealing with any anomalies that

arise. Also, interexchange carriers do not need to be made subject to any mandated deployment schedule because they have ample incentive to deploy LNP in their networks as quickly as they possibly can.

Finally, CMRS providers offer no compelling reason for retreating from the Commission's CMRS number portability requirements or extending the deadlines established in the LNP decision.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
)

Telephone Number Portability)
)
_____)

CC Docket No. 95-116

OPPOSITION TO
PETITIONS FOR RECONSIDERATION AND CLARIFICATION

I. INTRODUCTION

MCI Telecommunications Corporation and MCImetro (collectively, MCI), pursuant to Section 1.429 of the Federal Communications Commission's (Commission's or FCC's) Rules and Regulations, 47 CFR § 1.429, respectfully oppose the petitions for reconsideration and/or clarification discussed or cited herein (Petitions). These Petitions, filed predominantly by the Incumbent Local Exchange Carriers (ILECs), seek to dilute and delay the Commission's landmark Order on interim and permanent local number portability issues (Order).¹ The effect of granting the petitions would be to postpone or eviscerate key provisions of the Order. For the reasons discussed below, the Commission should reject these Petitions and stay on the course charted in the Order, which will lead to the eventual removal of one of the significant barriers to the development of effective competition for local exchange telecommunications services.

¹ *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-286, 9 FCC Rcd ____ (released July 2, 1996).

II. THE ORDER'S TREATMENT OF INTERIM LOCAL NUMBER PORTABILITY COST ALLOCATION ISSUES SHOULD NOT BE MODIFIED AS SOUGHT BY THE PETITIONS

Bell Atlantic (at 11-14), BellSouth (at 1-10), SBC (at 3-6), GTE (at 11-21), and Cincinnati Bell (CBT) (at 1-4) ask the Commission to reconsider its decision with respect to interim local number portability (ILNP) cost allocation. None of their arguments is new; the Commission considered all of their positions in making its decision and, accordingly, they are not the proper subject of a reconsideration request. Nevertheless, MCI will respond again.

Several ILECs assert that the FCC does not have jurisdiction over ILNP cost allocation. For example, SBC states that the provision in the Telecommunications Act of 1996 (the Act)² for competitively neutral cost allocation was not intended to be extended to interim number portability because the word "interim" does not appear in the Section 251(e)(2) cost allocation provision. (SBC at 3.) BellSouth shares this position, and attempts to bolster its argument by referring to interim number portability as "Transitional Measures," presumably to make it appear that the Act's provision for "number portability" cost allocation could not *possibly* have been meant to apply to something called "Transitional Measures." (BellSouth at 4-7.) Bell Atlantic asserts that, because ILNP is already "established," it is not covered by a provision for recovering the costs of "establishing . . . number portability." (Bell Atlantic at 12.)

The gist of these arguments is that, because the Act uses the term "number portability" when it required that the costs of number portability be allocated on a

² Pub. L. No. 104-104, 110 Stat. 56 (1996); 47 U.S.C. § 251 *et seq.*

competitively neutral basis, without specifically adding the term "interim number portability," Section 251(e)(2) cannot be read to apply to ILNP. Such a narrow reading of the statute implies that Congress intended to protect carriers at some point in the future from being competitively disadvantaged by number portability cost allocation, *i.e.*, once a permanent LNP solution were in place, but did not believe that such protection was relevant during the initial period of local competition, when new entrants had only the technically inferior ILNP methods available. Indeed, by disagreeing with the Commission's obligation to establish competitively neutral cost allocations principles, these LECs are implicitly acknowledging that currently in-place ILNP cost allocation is in fact on a competitively *un-neutral* basis.

MCI submits that these tortured interpretations are absurd. The Commission's interpretation that Section 251(e)(2) applies to number portability without regard to how it is provided technically is the correct interpretation. (Order at ¶ 125.) MCI agrees that the requirement in Section 251(b)(2) to provide number portability "to the extent technically feasible" includes provision of ILNP measures to the extent they are the only methods technically feasible at the present. (Order at ¶ 110.) As a result, the cost allocation provisions in the Act must logically and fairly apply equally to both interim and permanent number portability methods and, therefore, the ILECs' position on this issue must be rejected.

In a related attempt to avoid the application of competitively neutral principles to ILNP cost allocation, several BOCs claim that the Commission's principles interfere with existing negotiated agreements and state ILNP cost allocation and recovery decisions. (SBC

at 4-6, Bell Atlantic at 11-12, BellSouth at 3.)³ First, with regard to negotiated agreements, agreements negotiated by new entrant carriers with incumbents may deviate from statutory requirements by mutual agreement. Thus, under the statute, the Commission's implementing regulations cannot by law "interfere" with negotiated agreements. However, under Section 252 of the Act, a carrier has the right to demand an interconnection agreement that fully complies with Section 251 and the Commission's implementing regulations. In addition, the Commission has the statutory obligation to adopt implementing regulations that describe the minimum requirements necessary to meet the statutory requirement that LNP be provided on a competitively neutral basis.

Similarly, the fact that there are state commission decisions on interim number portability that pre-date the Commission's order does not prevent the Commission from exercising its statutory mandate to ensure that the costs of number portability are allocated on a competitively neutral basis. Congress charged the Commission with ensuring that the costs of number portability be borne on a competitively neutral basis, and so the Commission clearly has the right and the obligation under the Act to establish cost allocation principles. In addition, the Commission's order leaves to the states the flexibility to use a variety of cost allocation and recovery approaches that conform to the statutory mandate. (Order at ¶ 127.)

The ILECs opposing the FCC's ILNP cost allocation principles also claim that the Commission's decision will prevent the ILECs from recovering their costs of providing

³ Bell Atlantic also claims that LNP is an intrastate "service" over which the FCC lacks jurisdiction, "absent some explicit grant of authority" (Bell Atlantic at 12.) Notwithstanding the fact that the Commission correctly concluded that LNP is a necessary network routing function between carriers and not a "service" to be sold by one carrier to another (Order at ¶ 131), Section 251(e)(2) of the Act is obviously an "explicit grant of authority."

ILNP. (CBT at 1-2; BellSouth at 9; GTE at 12; Bell Atlantic at 13-14.) CBT and BellSouth further claim that the Commission's principles are "confiscatory" in violation of the Fifth and Fourteenth Amendments to the Constitution (BellSouth at 2), and constitute an unlawful taking (CBT at 3-4.)

These ILECs obviously have confused the Commission's articulation of cost allocation principles with end user cost recovery. Nowhere does the Commission's Order deny any carrier the right to seek and obtain recovery of its allocated share of ILNP costs. Indeed, the Commission explicitly left to state commissions the flexibility to choose cost allocation and recovery approaches that meet the statutory mandate and FCC guidelines. (Order at ¶ 127.)

Unfortunately, the term "cost recovery" has been used synonymously with "cost allocation" when, in fact, the two terms are very different. The Commission has articulated principles of cost *allocation* that are consistent with the Act, meaning it has determined how the costs of ILNP should be apportioned among competing local exchange carriers in a competitively neutral manner. Thus, when the Commission stated that "the incremental payment by the new entrant if it wins a customer would have to be close to zero" (Order at ¶ 133), it did *not* mean that the incumbent may not *recover* any of its costs of providing ILNP services, but only that all of the recovery cannot be *placed directly upon the new entrant*. The Order does not in any way preclude cost *recovery* by carriers from their end users or shareholders and, in fact, leaves such decisions up to carriers and/or state regulators.

Finally, the ILECs are completely wrong in claiming that the Commission's cost allocation principles will result in *all* of the costs of ILNP falling on the ILECs and, accordingly, are not competitively neutral. The Commission's principles are designed so that

the costs will fall *proportionately* on all carriers. All local carriers—including MCI, AT&T, MFS, TCG, and others—are required to provide ILNP routing to end users wishing to port their numbers to other carriers' networks. Thus, all local carriers will be incurring ILNP costs. The Commission has left to the states the flexibility to decide among the several types of proportionate cost allocation schemes but, under all of them, all local carriers will share in the costs of providing ILNP. Moreover, the Commission provided a well-reasoned discussion in support of its competitively neutral cost allocation principles, and the ILECs offer no reason now for the Commission to reconsider its decision.

III. THE COMMISSION SHOULD REJECT THE ILECS' ATTEMPT TO RESUSCITATE "QUERY ON RELEASE"

Led by Pacific Telesis (Pacific),⁴ a number of ILECs mount an attempt to bring Pacific's so-called Query on Release (QOR) architecture for permanent LNP back to life.⁵ After carefully considering and establishing nine performance criteria that any long-term number portability method must meet (Order at ¶ 48), the Commission "effectively preclude[d] carriers from implementing QOR" (Order at ¶ 54.) Undeterred, Pacific presses this issue on a number of fronts. As discussed below, none of the arguments offered by Pacific or the other ILECs warrants clarification or modification of the Order's proper rejection of QOR.

⁴ The QOR portion of Pacific's Petition is concurred in by GTE, BellSouth, CBT, SNET, SBC, Denver & Ephrata, and USTA.

⁵ See Bell Atlantic at 2-10, BellSouth at 18-24, SBC at 1-3, U S West at 12-15, NYNEX at 3-6, GTE at 10, and USTA at 2-11.

A. USING QOR "WITHIN A CARRIER'S NETWORK" DOES NOT COMPLY WITH THE COMMISSION'S PERFORMANCE CRITERIA

In an apparent belief that QOR can somehow be made to comply with the Commission's fourth performance criterion -- not requiring carriers to rely on the networks of their competitors in order to route calls -- Pacific asks the Commission to approve the use of QOR "within a carrier's network or between consenting networks." (Pacific at 2-12.) Pacific asserts that using QOR for calls within its network, and Location Routing Number (LRN) for calls between its network and another carrier's network, will overcome the Commission's objections.⁶ Nothing could be farther from the truth.

Pacific explains that using QOR for calls within its network means that it would use QOR for all local calls originating with its customers and destined for a number in an NXX (central office) code assigned to one of Pacific's switches. However, in the early stages of local competition, Pacific's switches will have the great majority of both customers and active NXX codes in its service territory. New entrants will market to this Pacific customer base, the customers that are won from Pacific will want to keep their numbers, and the great majority of new entrants' customers *will retain their number in an NXX code assigned to one of Pacific's switches*. The only calls that will remain "within" Pacific's network will be calls from one Pacific customer to another. These calls would be routed and completed under QOR exactly as they are today. Ironically, it is only the calls to customers that have ported their numbers off Pacific's network that would be affected by Pacific's deployment of QOR,

⁶ Pacific also asserts that "QOR is not a substitute for LRN, it is an enhancement." (Pacific at 2.) This statement is analogous to the occasional (tongue-in-cheek) practice in the computer industry of calling software bugs "features."

because QOR does not kick into action until the terminating Pacific switch determines that the called customer is now a customer of a new entrant. Thus, the new entrant would indeed be dependent on Pacific's choice of QOR and would have absolutely no way to influence or veto that choice.

It is therefore irrelevant that, as Pacific claims, Pacific's use of QOR "within" its own network would not require other carriers to deploy QOR as well. The Commission has clearly stated that "methods which first route the call through the original service provider's network in order to determine whether the call is to a ported number, and then perform a query only if the call is to be ported, would treat ported numbers differently than non-ported numbers. (Order at ¶ 53.) As discussed below, it is the very fact that QOR would treat "within-network" ported calls different from non-ported calls -- and in an inferior manner -- that makes QOR non-compliant with both the Commission's performance criteria and the Act.⁷

⁷ 47 U.S.C. § 153 (30.)

B. QOR WOULD INTRODUCE UNACCEPTABLE POST-DIAL DELAY ON CALLS TO PORTED NUMBERS

Pacific asserts that the additional post-dial delay it admits is associated with QOR should not concern the Commission for two reasons: (1) Pacific doesn't believe that the additional post-dial delay "will be perceptible to the end user," and (2) Pacific doesn't believe that QOR will "result in any detriment to the called party who has ported their number." (Pacific at 5.) Each of these assertions misses the mark.

First, Pacific compares its estimate of post-dial delay under QOR with its estimate of post-dial delay under LRN, and asserts that the *difference* is "less than one-half second." (Pacific at 5.) Pacific, however, is using an "apples and oranges" comparison. The proper comparison is *not* the post-dial delay of QOR vs. LRN. Instead, the correct comparison is the post-dial delay using QOR for calls to ported vs. *non-port*ed numbers. The Commission did not engage in a complex calculus concerning how much post-dial delay was "too much." Rather, it properly found that *any* difference in post-dial delay for calls to ported vs. non-port~~ed~~ numbers "would disadvantage the carrier to whom the call was ported and impair that carrier's ability to compete effectively against the original service provider" and, on that basis (among others), found QOR non-compliant with the LNP performance criteria. (Order at ¶ 53.) Moreover, MCI disagrees with Pacific's estimate of the post-dial delay associated with QOR. MCI calculates that the post-dial delay associated with QOR could be 1700 milliseconds or more, depending on the call setup path, the release point, the QOR initiating point, and whether continuity checks are performed on the call.

Second, the basis for Pacific's claim that QOR will not result in any detriment to the called parties who has ported their number is Pacific's assertion that the deleterious effects of

QOR will affect only originating customers because only they incur the post-dial delay.

(Pacific at 6.) This argument also misses the mark. Allowing Pacific to create a disparity in post-dial delay using QOR would provide it with a significant and unjustified marketing advantage, as Pacific would be able to state -- truthfully -- that calls on its network will be completed faster than calls destined for the networks of its competitors. This, in turn, will create a marketplace perception that Pacific's competitors were operating "second-class," inferior networks. It is difficult to conceive of anything more distant from the concept of competitive neutrality.

Lest Pacific protest that it would never engage in such behavior, it should be pointed out that, in a competitive market, a competitor usually will seize upon *any* factor to differentiate its services from those of its competitors. Indeed, there are lessons to be learned from the recent past. Prior to advent of 800 number portability, AT&T widely advertised that its 800 service was operationally superior to those of its competitors by, for example, enjoying faster call completion (*i.e.*, lower post-dial delay). Thus, it sought to capitalize on its temporary advantage -- resulting, co-incidentally, from its monopoly past -- to gain a marketplace advantage, just as Pacific is likely to do in this instance.

C. THE "BENEFITS" CLAIMED BY PACIFIC FOR QOR ARE ILLUSORY AND OVERSTATED

1. Network Efficiency

Pacific claims that QOR is more efficient than LRN because LRN dips "every call" leaving a switch, while QOR does not. Pacific also refers ominously to "billions of calls" that must be dipped in the LNP database under LRN.⁸ (Pacific at 7.) Pacific's claims are overstated, misleading and incomplete. LRN will *not* require Pacific or other ILECs to dip every call to a portable NXX. All interLATA toll calls will be sent directly to the customer's presubscribed interexchange carrier; MCI calculates that 15 to 20 percent of call volumes are interLATA. In addition, intraswitch calls will not be dipped under LRN; another 15 to 20 percent of call volumes are intraswitch. Furthermore, once ILECs deploy intraLATA equal access, intraLATA toll calls will no longer be dipped.

In addition, the fact that a large number of calls will be dipped in the LRN database is certainly no cause for concern. Telecommunications network architecture for all carriers has rapidly evolved to an SS7-driven IN/AIN model. A central aspect of this architecture is the movement of call processing intelligence out of the switch and into SCPs accessed by SS7 links. LNP, as well as other call processing intelligence, will continue to follow this trend in the future. Interestingly, Pacific does not mention this fact, nor the fact that Pacific is deploying AIN throughout its network.

⁸ Pacific's imagery evokes recollections of Dr. Carl Sagan and his "billion and billions of stars." Like Dr. Sagan's universe, into which billions of stars fit comfortably, the capacity of telecommunications carriers' SS7 networks can be easily expanded to handle billions of LNP dips.

Moreover, QOR itself results in significant network inefficiencies. As Pacific describes, QOR attempts to set up every call to the NXX of the called party using SS7 signaling. However, this very use of SS7 signaling creates network inefficiencies. Trunks between the originating switch and the terminating switch must be reserved during call setup; these trunks would not be needed on calls to ported numbers if the originating switch performed a database dip under LRN. Moreover, the ported call under QOR may need to be routed to and switched at an additional tandem switch if the new entrant's destination switch subtends a different ILEC tandem—a likely occurrence in metropolitan areas. Also, network provisioning would be more complex with QOR because each switch would have to be provisioned for either LRN or QOR on an NPA-NXX basis, on an incoming trunk group basis, and on an outgoing trunk group basis.

2. Cost Savings

Pacific asserts that, based on "new" analysis, the cost difference between LRN and QOR is \$130 million over five years rather than the \$71 million it claimed in its *ex parte* submission to the Commission. However, Pacific has not chosen to reveal the basis of its calculations, claiming that the cost information is "proprietary and confidential." (Pacific at 8-9.) Thus, MCI and other parties cannot assess the accuracy of Pacific's claims and, under the circumstances, those claims should not be relied upon.

In any event, Pacific's cost saving claims are suspect and should be heavily discounted, if not ignored entirely by the Commission. Pacific's cost differential has doubled in just a few months. The reason appears to be claims of "substantial switch real time effects." (Pacific at 8.) Such claims should be given no credence. MCI has been unable to

duplicate switch real time effects of anything close to this magnitude for a network the size of Pacific's. While there may be some switch real time effects associated with LRN and, to a lesser extent, QOR, they do not result in each switch needing a processor upgrade. Moreover, it is likely that Pacific's calculation ignores the switch real time processor savings caused by the fact that customers will be leaving Pacific for other carriers and taking their call volumes with them. This recaptured capacity will largely or fully offset the additional need for switch real time capacity caused by LNP deployment.

3. Network Reliability

Pacific also claims that allowing QOR eases "network reliability concerns." (Pacific at 9.) Such "concerns" are apparently founded on the fact that "huge" new loads on the SS7 network will occur in "populous" MSAs.

This argument represents nothing more than a Pavlovian recycling of the old "harm to the network" claim raised by the ILECs for decades. The argument is completely bankrupt. As noted earlier, Pacific has been evolving its network rapidly to the SS7-based AIN model. If this model is acceptable when *Pacific* is the driving force behind it, it should certainly be acceptable when the Commission orders ILECs to do more of the same. One would think, from reading Pacific's pleading, that the SS7 network is static in size and capacity. In fact, the opposite is true. The SS7 network is constantly growing. Moreover, the growth job required for LRN deployment will allow Pacific to put newer SCPs in its network that are more efficient than those currently deployed. Indeed, Pacific recently announced plans to do just that.

Moreover, contrary to Pacific's claims, it is in fact QOR, not LRN, that poses a risk to network reliability. With LRN, network engineers can efficiently size the SS7 network to handle easily forecasted volumes because all non-toll interswitch calls to portable NXXs will be dipped. With QOR, on the other hand, such forecasts will be impossible because the SS7 volume will be a function not only of ported customers, but also of call volumes to those ported customers, which no one can accurately forecast. As a result the SS7 network under QOR will be chronically over- or undersized, with concomitant negative effects on SS7 network efficiency and reliability.

4. Portability Deployment Schedule

Saving its weakest argument for last, Pacific asserts that QOR "may" help it meet the Commission's LNP deployment schedule. (Pacific at 9.) The Commission should dismiss this claim summarily. Pacific makes no claim, nor can it, that it is not technically feasible to deploy LRN fully in its network under the schedule ordered by the Commission. Pacific has an obligation to meet the schedule mandated by the Commission. It would hardly be in the public interest for the Commission to make that task easier for Pacific, if the price is the proven and fatal detriments of QOR.

D. THE COMMISSION'S DECISION THAT QOR IS PRECLUDED SHOULD NOT BE MODIFIED

Pacific asserts that the Order's preclusion of QOR is based on incorrect facts and therefore needs reconsideration. (Pacific at 10-11.) MCI strongly disagrees with each of Pacific's assertions.

First, Pacific claims that LRN would also treat ported and non-ported numbers differently because LRN would not dip intraswitch calls. Pacific's argument fails to

recognize an important distinction between intraswitch and interswitch calls, and between LRN and QOR. On intraswitch calls, there is no need to access another network node or to involve interswitch signalling and trunking facilities. Thus, the industry determined that competitive neutrality would not be affected by not dipping intraswitch calls because none of the detrimental effects discussed above would be present.

Pacific also challenges the Order's conclusions that QOR would force reliance on the ILEC's network, increase post-dial delay and the potential for call blocking, and result in inefficient routing, and would create significant network interoperability issues. However, Pacific raises no new arguments in support of these assertions, instead citing to the earlier portion of its Petition. MCI already has addressed those arguments and will not repeat itself here.

Finally, Pacific asserts that QOR would not delay LNP deployment, stating that "the fact is that Siemens, Nortel and (*it appears*) Lucent have indicated that QOR functionality *will* be provided in time to meet the schedule in the Order." (Pacific at 11, emphasis added.) In fact, the facts are otherwise. Indeed, Bell Atlantic, in a section otherwise remarkably similar to that in Pacific's Petition, states that "the fact is that all manufacturers *other than AT&T's Lucent* have said that the QOR functionality *can* be provided in time to meet the schedule in the Order." (Bell Atlantic at 10, emphasis added.)⁹ The facts also are that the new Bellcore requirements document covering QOR did not issue until April 1996, and that there is no vendor compliance schedule for that document yet. There is, therefore, no

⁹ We need hardly point out that Pacific, like most ILECs, has a large number of AT&T switches deployed in its network, and that any delay in the availability of QOR for AT&T switches would therefore have a significant detrimental effect on LNP deployment.

assurance yet that vendors can comply with the Bellcore requirements. Moreover, QOR has never been fully examined and specified *by the industry* in any state LNP task force.

Pacific's claim, accordingly, represents nothing more than wishful thinking.

Thus, despite Pacific's and the other ILECs' attempts, QOR cannot be revived as an architecture that meets the Commission's LNP performance standards. An architecture like QOR that does not ensure competitive neutrality is inherently bad, making it irrelevant as to whether it is cheaper than LRN or available at the same time as LRN.

IV. THE ORDER'S SCHEDULE FOR LNP DEPLOYMENT SHOULD NOT BE MODIFIED

Not surprisingly, most ILECs are asking the Commission to reconsider its LNP implementation schedule. (*See, e.g.*, U S West at 1-11; BellSouth at 10-15; SBC at 10-11; NYNEX at 7-17; GTE at 3-10; USTA at 14-19.) None of the arguments presented by these ILECs presents new information to the Commission. All of their dire predictions were brought forth in their pleadings and numerous *ex parte* meetings leading up to the Commission's decision. The Commission thus considered and rejected those ILECs' attempts to delay for as long as possible the implementation of technically feasible number portability, and the Commission should quickly and finally reject these arguments again here.

The Commission based its schedule in large part on the already-established LNP deployment schedules in Illinois, Georgia, Colorado, Maryland and New York (Order at ¶76), all of which were, even without the Commission's Order, already planning for LNP implementation beginning by the third or fourth quarter of 1997. The Commission thus had adequate information to determine that requiring LNP implementation in the top 100 MSAs

to begin in the fourth quarter of 1997 was reasonable and achievable. Nevertheless, the Commission included numerous safeguards to ensure that portability implementation could proceed safely and reasonably for all carriers.

First, the Commission delegated authority to the Chief of the Common Carrier Bureau to monitor the progress of local exchange carriers' implementation of number portability. While this oversight is provided in part to ensure that all carriers -- especially those with an interest in delaying portability -- take the actions necessary to meet the schedule, it also will enable the Commission to become aware of any technical problems that might legitimately jeopardize the schedule.

Second, the Commission established a requirement for field testing prior to widespread LNP implementation. Several LECs supporting a delay in the schedule suggest that the integrity and reliability of the public switched telephone network is at risk as a result of the FCC's schedule. (*See, e.g.*, BellSouth at 12.) However, the Commission did take concerns for the network into account in its requirement that a field test take place in the Chicago MSA:¹⁰

While we do not routinely order field testing of telecommunication technologies as part of rulemaking proceedings, we have a significant interest in ensuring the integrity of the public switched network as number portability is deployed nationwide. We believe a field test will help to identify technical problems in advance of widespread deployment. (Order at ¶ 79.)

Third, and perhaps most significant, the Commission established a process whereby the Chief of the Bureau can grant legitimate requests to delay or stay the implementation

¹⁰ Of course, telecommunications technology is not bounded by latitude and longitude. What works in Chicago will work in the rest of the country, since all carriers use switches from the same few vendors, and have similar network designs.

dates for up to nine months, if necessary. (Order at ¶ 85.) The Commission has correctly balanced the need to mandate the earliest reasonable deployment schedule with the ability for carriers to seek and obtain delays, if truly necessary. Thus, if any of the dire predictions made by the LECs actually come true, those carriers will have a fair opportunity to seek limited postponements to the schedule.

By the same token, though, certain LECs have made it abundantly clear that they will seek any and every chance to delay the availability of portability to their competitors. Therefore, the Commission should reiterate its intention to deny requests that are not based on a carrier's demonstration through *substantial and credible evidence* of the reasons why the deployment schedule cannot be met.

Finally, the Commission already addressed in its Order the concerns about the application of its implementation schedule to smaller carriers serving customers in the top 100 MSAs. As the FCC noted (Order at ¶ 83), the Act permits rural telephone companies to seek exemption from the Section 251 requirements to provide number portability, and the FCC further established rules covering the application of the exemption in its *First Report and Order* in CC Docket Nos. 96-98 and 95-185. (See, e.g., ¶¶ 1249-1265.) In addition, the Commission has provided the waiver process discussed above for carriers that may not meet the exemption criteria but who nevertheless believe they are unable to meet the implementation deadlines for particular offices. These mechanisms provide more than adequate opportunity for ILECs to demonstrate an inability to implement local number portability according to the Commission's schedule. However, providing the types of blanket waivers requested by some ILECs (*i.e.*, GTE at 8-10; NECA at 1-4; NTCA and OPATSCO

at 1-5; USTA at 14-19) would substantially lessen the likelihood that local exchange competition will ever reach the areas served by these companies.¹¹

V. **"INTERMEDIATE" CARRIERS NEED NOT BE SUBJECT TO ANY COMMISSION-MANDATED DEPLOYMENT SCHEDULE**

Pacific asks the Commission to include "intermediate" networks, such as those of IXC's, in the Commission's LNP implementation schedule. (Pacific at 12-14.) The Commission should reject Pacific's request because it is completely unnecessary. MCI, AT&T, Sprint and other IXC's have announced early and often in state LNP task forces that they plan to deploy LNP in their respective networks as soon as it is available. Moreover, IXC's have an obvious and powerful incentive to do just that, namely, to find a means to escape the unreasonably high access charges that they have had to pay for years. LNP will allow them to route their calls to new entrants who likely will offer terminating access at charges more closely related to costs.

VI. **THE COMMISSION SHOULD REQUIRE FULL CMRS LOCAL NUMBER PORTABILITY ON A NATIONWIDE BASIS INCLUDING SUPPORT FOR NATIONWIDE ROAMING OF CMRS CUSTOMERS WITH PORTED NUMBERS NO LATER THAN JUNE 30, 1999**

A number of arguments have been advanced by the cellular carriers and other covered CMRS providers in support of their contention that the deadline for CMRS portability should

¹¹ Nor are the service territories of these requesting ILECs areas where there will be little demand for number portability. GTE, for example, services a large portion of the greater Los Angeles area, as well as large metropolitan areas in Florida and other states.

be delayed or, in some cases, deferred indefinitely. These arguments range from a lack of current activity within industry standards bodies to the alleged lack of SS7 deployment within the wireless industry. However, none of these arguments provides a compelling reason for the Commission to retreat from its CMRS number portability requirements or to extend the deadlines established in the Order.

The claims of cellular carriers, in particular, are reminiscent of the arguments advanced by portability opponents in the 800 portability proceeding. They claim there is insufficient time to develop the necessary standards for functions such as 10 digit based screening and insufficient time to plan for and implement upgrades to cellular networks to incorporate IN/AIN capabilities. Under the guidance provided by the Commission staff, LECs -- even those in small communities in rural areas with declining populations -- were able to implement 800 number portability within 24 months with similar technical and standards issues. There is no reason to believe that cellular carriers and other CMRS providers, who have generally deployed state of the art digital switches and who are experiencing growth rates far surpassing anything seen in the wireline industry in many decades, cannot be expected to meet the Commission's portability directives within a 24-33 month period.

After all, the underlying technology and engineering principles to provide wireless number portability are very similar to 800 number portability: this is not a case of "starting from scratch." In this proceeding, the Commission has delegated authority to the Chief, Wireless Telecommunications Bureau, to establish reporting requirements to monitor the progress of cellular, broadband PCS and covered SMR providers implementing